

EXHIBIT 1

INTRODUCTION

Respondent Kevin Shelley was elected to the office of California Secretary of State on November 5, 2002. Respondent served in that office until his resignation on March 4, 2005. Respondent Shelley previously served in the California State Assembly from 1996 through 2002. Shelley for Secretary of State – Every Vote Counts was the controlled committee of Respondent Shelley during his 2002 election campaign for the office of Secretary of State.

The Political Reform Act (the “Act”)¹ strictly prohibits the receipt of campaign contributions in the State Capitol, state office buildings, or any office for which the state pays the majority of the rent other than state legislative offices. In this matter, Respondent Shelley received a \$2,000 campaign contribution in his state office in May 2003 in violation of this prohibition.

For purposes of this Default Decision and Order, Respondent’s violation of the Act is stated as follows:

COUNT 1: On or about May 23, 2003, Respondent Kevin Shelley received a \$2,000 campaign contribution from Suresh Patel in a state office building, or an office for which the state pays the majority of the rent other than state legislative offices, in San Francisco, in violation of section 84309, subdivision (a).

THE ADMINISTRATIVE PROCEDURE ACT

Pursuant to the Administrative Procedure Act (the “APA”),² a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent’s failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subdivision (c).) A default decision may be issued if the respondent fails to file a Notice of Defense within 15 days of service of the Accusation. (Section 11520, subdivision (a).)

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

² The Administrative Procedure Act is contained in sections 11370 through 11529 of the Government Code.

On March 10, 2006, the Accusation in this matter issued against Respondent. On March 14, 2006, the Enforcement Division personally served the Accusation on Respondent Shelley through his attorney, who provided written authorization to accept service on Respondent's behalf.

Section 11505, subdivision (c) provides that the Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but that no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in section 11505. (A copy of the proof of service is attached hereto as Exhibit A and incorporated herein by reference.) Along with the Accusation, the Enforcement Division served Respondent Shelley with a "Statement to Respondent" which notified Respondent that he could request a hearing on the merits and warned him that, unless a Notice of Defense was filed within fifteen days of service of the Accusation, Respondent Shelley would be deemed to have waived his right to a hearing. Respondent Shelley failed to file a Notice of Defense within the statutory time period.

On March 30, 2006, Senior Commission Counsel Melodee A. Mathay sent a letter to Respondent's attorney informing him that this matter would be submitted for a Default Decision and Order at the Commission's next public meeting scheduled for April 13, 2006. A copy of the Default Decision and Order, and this accompanying Exhibit 1, was included with the letter.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, in order for voters to be fully informed, and for improper practices to be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system, including several prohibitions regarding the receipt and making of contributions.

Section 84309, subdivision (a) prohibits any person from receiving, personally delivering, or attempting to deliver a contribution in the State Capitol, in any state office building, or in any office for which the state pays the majority of the rent other than a legislative district office. The prohibition has been part of the Act since 1982, and was enacted, in part, to reduce the perception of state officials soliciting and accepting campaign contributions in exchange for votes or when conducting official state business.

Section 84309, subdivision (b)(1) defines "personally deliver" as the delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary. Subdivision (b)(2) of this section also defines "receive" to include the receipt of a campaign contribution delivered in person. For the purposes of section 84309, subdivision (b)(1), regulation 18439, subdivision (a) further clarifies that "personally deliver" includes the delivery of a copy or facsimile of a contribution, or the delivery of an original or a copy of a transmittal letter of a contribution, and subdivision (b) of this regulation provides that "personally deliver" does not include the delivery of a contribution by the United States Post Office.

SUMMARY OF THE FACTS

Respondent Kevin Shelley is the former California Secretary of State, who was elected to that office in the November 5, 2002 general election. Respondent Shelley was previously a member of the California State Assembly, serving from 1996 through 2002. On March 4, 2005, Respondent Shelley resigned from state office. Shelley for Secretary of State – Every Vote Counts was the controlled campaign committee of Respondent during his 2002 election campaign for the office of Secretary of State.

COUNT 1

Receiving a Campaign Contribution in a State Office Building

According to records obtained from the California Secretary of State's Office (hereafter "SOS office"), Shelley for Secretary of State – Every Vote Counts (the "Committee") was the controlled committee of Respondent Shelley in 2003. According to campaign statements filed by Respondent Shelley and the Committee, for the reporting period January 1, 2003 through June 30, 2003, the Committee reported receiving a \$2,000 campaign contribution from Suresh P. Patel (hereafter "Suresh Patel") on June 2, 2003. According to campaign records obtained from the committee, a copy of the \$2,000 contribution check from Mr. Patel reflects that it was issued to "Kevin Shelley for Secretary of State," was dated May 24, 2003, that Mr. Patel's address was listed as 1015 Ocean Street in Santa Cruz, California, and that Mr. Patel was listed as a self-employed hotel operator.

According to documents and records obtained from the SOS office, Suresh Patel was scheduled for a meeting at the SOS San Francisco office with Respondent Shelley on Friday, May 23, 2003. The SOS San Francisco office was located at 455 Golden Gate Avenue in San Francisco.

The Enforcement Division interviewed Suresh Patel on March 17, 2005, regarding the campaign contribution he made to Respondent on or about May 23, 2003. Mr. Patel stated that he contributed a total of \$5,000 to Respondent between 2002 and 2003. In the fall of 2002, Mr. Patel decided to support Respondent Shelley for Secretary of State, and he pledged to make a \$5,000 contribution to Respondent's campaign. Prior to the November 2002 election, Mr. Patel gave Respondent Shelley a \$3,000 contribution.

After the November 2002 election, Mr. Patel scheduled the above meeting on May 23, 2003 with Respondent in Respondent's SOS office in San Francisco. According to Mr. Patel, the purpose of the meeting was to seek Respondent's assistance with a state tax lien issue regarding a former business partnership. He also thought he would use the occasion to drop off the remaining \$2,000 contribution from his previous \$5,000 pledge.

According to Mr. Patel, he and his wife, Surekha Patel, came to Respondent's state office on Golden Gate Avenue in San Francisco on May 23, 2003 for the above scheduled meeting. After being escorted into Respondent's private office within the suite of state offices, Mr. Patel stated that he handed the \$2,000 contribution check to Respondent, and that Respondent received the

contribution check from him. Mr. Patel stated that two members of Respondent's staff were in the room at the time, but he could not identify them. Mr. Patel stated that although his \$2,000 contribution check was dated May 24, 2003, it was the same contribution check that he handed to Respondent on May 23, 2003. Mr. Patel also stated that, although his wife accompanied him to the meeting on May 23, 2003, Mrs. Patel was not in the room when he handed the contribution check to Respondent.

The Enforcement Division attempted to interview Respondent Shelley regarding the contribution he received from Suresh Patel on May 23, 2003, but Respondent declined to be interviewed regarding the matter.

By receiving a \$2,000 campaign contribution from Suresh Patel on or about May 23, 2003 in a state office building, or an office for which the state paid the majority of the rent other than state legislative offices, as set forth above, Respondent Kevin Shelley committed a violation of section 84309, subdivision (a).

CONCLUSION

This matter consists of one count, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000).

The acceptance of a campaign contribution in a state office building, or an office for which the state pays the majority of the rent, is a serious violation. Respondent Shelley, as a former member of the State Legislature for six years, and as the newly elected Secretary of State for the State of California, knew or should have known that the act of accepting a campaign contribution in his San Francisco office was strictly prohibited. However, this appears to be an isolated incident.

Accordingly, the facts of this case, and the mitigating and aggravating circumstances addressed herein, justify imposition of a total administrative penalty of Five Thousand Dollars (\$5,000).